IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

Crl.Rev.Pet.No. 747 of 1998()

CRA.366/1996 of III ADDL.SESSIONS COURT, ERNAKULAM
CC.260/1994 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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REVN. PETITIONERS:

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1. AUGUSTINE, S/o. PETER,
   CHERIYAKAKKARANCHERI VEEDU,
   MUNDAMVELI MURI,
   RAMESWARAM VILLAGE.

2. XAVIER, S/o. ANTONY,
   CHERIYAKAKKARANCHERI VEEDU,
   MUNDAMVELI MURI,
   RAMESWARAM VILLAGE.

3. BIJU, S/o. JOSPEH,
   CHERIYAKAKKARANCHERI VEEDU,
   MUNDAMVELI MURI,
   RAMESWARAM VILLAGE.

4. ANTONY, S/o. PETER,
   CHERIYAKAKKARANCHERI VEEDU,
   MUNDAMVELI MURI,
   RAMESWARAM VILLAGE.

BY ADV. SRI.SHAIJAN C.GEORGE

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KANNAMALY POLICE STATION,
CRIME NO.1/92.

BY PUBLIC PROSECUTOR SRI. BREEZE M.S.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.No.3811 OF 1998 IN C.R.R.P. No. 747 OF 1998

DISMISSED

4/4/2007 Sd/-. K.R.UDAYABHANU, JUDGE

TRUE COPY

P.A.TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.No. 747 of 1998

Dated this the 4th day of April, 2007

O R D E R

The revision petitioners are the accused 1 to 4 in C.C.No.260/94 who stands convicted for the offences under Sections 143, 147, 341 and 323 read with 149 IPC and sentenced to pay a fine of Rs.500/- each and in default, to undergo simple imprisonment for one month under Section 143 IPC, to pay a fine of Rs.1,000/- each and in default, to undergo simple imprisonment for three months each under Section 147 IPC, to pay a fine of Rs.250/- each and in default, to undergo simple imprisonment for 7 days each under Section 341 IPC and to pay a fine of Rs.500/- each and in default, to undergo simple imprisonment for three months each under Section 323 IPC and that of the fine amount, if paid, Rs.1,000/- each shall be paid as compensation to PWs' 2 and 3 under Section 357 of the Code of Criminal procedures.

2. The prosecution case is that on 1.1.1992 at about 1 p.m., the accused having animosity towards PWs' 2 and 3 formed

themselves into an unlawful assembly in the public road situated north of Jishy Hospital in Mundumveli and the first accused caught hold of PW3 and the second accused fisted him on his chest and the other accused fisted PWs' 2 and 3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 11 and Exts. P1 to P6. The portions of Section 161 statement that has been put to PWs' 3 and 4 in the cross examination are marked as Exts.D1 to D4. Ext. P5 is the wound certificate in respect of A1.

3. The contention of the revision petitioner is that the names of the accused except A1 and A2 has not been mentioned in Ext.P2 FIS rendered by PW2. The names of the accused are not mentioned in the wound certificates of PW2 and PW3 i.e, Exts. P5 and P6. On a perusal of evidence adduced in the matter, I find that no contradiction as such with respect to Section 161 statement as to the identity of the accused persons has been brought out in the cross examination. In Ext. P5 wound certificate, PW3 has stated that accused 1 and 2 and others manhandled him. PW2 has sustained bleeding injury on the

nostrils and PW3 tenderness on the front of the chest. I find that the omission to mention the name of the rest of the accused in the FIS that was rendered immediately after the incident when PW2 was hospitalised is not a reason to disbelieve the version of PWs' 2 and 3 as well as PW4, the independent occurrence witness. I find no reason to interfere in the appreciation of evidence by the courts below in exercise of the revisional jurisdiction of this court.

The criminal revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl